

### **REMARKS**

Claims 1-9 are amended. Claims 21-29 are added. Thus, claims 1-9 and 21-29 are pending in the application for consideration; claims 16-20 being previously withdrawn. Additionally, the Specification has been amended to correct informalities.

5 No new matter is entered. In view of the following remarks, Applicant respectfully requests the application be allowed and forwarded on to issuance.

#### **Rejections Under 35 U.S.C. §§ 101, 103**

Claims 1-9 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

10 Claims 1-7 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,754,470 to Hendrickson et al. (hereinafter "Hendrickson") in view of U.S. Patent Application Publication No. 2005/0086211 to Mayer.

Claims 8 and 9 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hendrickson in view of Mayer, and further in view of U.S. Patent No. 6,968,179 to DeVries.

15 Applicant makes no representation that cited references are prior art. This response and any remarks or comments included herein are not intended to be, and are not to be interpreted as, an admission that any cited references are prior art. Applicant reserves the right to dispose of any cited reference under 35 U.S.C. § 102 and/or 20 35 U.S.C. § 103, including but not limited to antedating any one or more of the cited references.

**Interview Summary for Interview Conducted on March 18, 2009**

Applicant wishes to thank Examiner Jonathan Sterrett for conducting a telephonic interview with Applicant's attorney, Kevin E. West, on March 18, 2009.

In the interest of expediting allowance of the application, and without conceding the propriety of the rejection, Applicant's attorney proposed to amend independent claim 1 to address the rejections of claims 1-9 under 35 U.S.C. § 101. Applicant's attorney understood the Examiner to tentatively agree that the proposed amendment overcame the outstanding rejections under section 101.

During the interview, Applicant's attorney also discussed the priority date accorded to the Mayer reference by the Office, and submitted differences between the Hendrickson, Mayer and DeVries references and the claimed subject matter.

**Claims**

Applicant submits that the Office has not established a *prima facie* case of obviousness of claims 1-9. In rejecting independent claim 1, the Office notes that Hendrickson fails to teach or suggest "[w]here the inquiry is generated by a first user," "automatically selecting a group of users from said plurality of users, each user of said group of users having said attribute, said selecting including analyzing said respective information of each of said plurality of users, said attribute being identifiable from said respective information of each of said selected group of users and forwarding said inquiry into said wireless network to said group of users," and "receiving from said wireless network responses from one or more users in said group of users and forwarding said responses into said network to said first user."

Consequently, the Office relies on Mayer to provide this teaching. However, the Mayer application was filed on August 9, 2004, well after the filing date of the present application (January 8, 2002). While Mayer does claim priority as a continuation-in-part of earlier filed applications, the Office has made no argument that the subject matter  
5 relied upon in Mayer was available in these earlier applications. Thus, the Office has articulated no reason that Mayer should be accorded a priority date earlier than its actual filing date of August 9, 2004.

Moreover, contrary to the Office's assertions, Mayer nowhere teaches or suggests "receiving from said wireless network an inquiry generated by a first user device, said  
10 inquiry having predetermined responses associated therewith that are configured to be completed by recipients of said inquiry, and receiving from said wireless network an attribute provided by said first user as a criteria for identifying the recipients of said inquiry" as recited in claim 1. Instead, Mayer is directed to an Internet dating service that employs instant messaging to match users based on answers to a common computer  
15 dating questionnaire provided to all users of the service. Specifically, Mayer discloses:

A suitable plug-in or add-on coupled to the client program preferably for each of the main instant messaging networks where plug-ins or add-ons are possible, that is preferably activated each time the user activates said client program. Whenever this plug-in or add-on is activated, preferably it first sends the *user's compatibility questionnaire* data to a central server (or servers) (this is needed for example in case the database of potential  
20 dates is dynamic and exists only during the time that these people are logged in, or if the user has just *filled the questionnaire* for the first time or made changes to it) and then preferably sends only small packets of data containing at least the user's unique id every certain interval. (Taking  
25 care of sending these short messages may be done also by a separate element or plug-in or add-on). When the user wants to search for new people to add to his contact list for example according to attributes search or 2-way compatibility search, preferably the search is done either on the

dynamic database as explained above or in a static database of users that *filled the compatibility questionnaire*, according to different embodiments.

Mayer, ¶ [0016] (emphasis added).

5 In Mayer, users fill a common compatibility questionnaire. The users do not generate the questionnaire themselves. Consequently, Mayer nowhere teaches or suggests “an inquiry generated by a first user device” that includes “predetermined responses associated therewith that are configured to be completed by recipients of said inquiry” as recited. Further, Mayer discloses that attributes taken from the questionnaire  
10 are merely used to match users. They are not used to determine which other users receive the questionnaire. Thus, Mayer also fails to teach or suggest receiving “an attribute provided by said first user as criteria for identifying the recipients of said inquiry.”

Accordingly, claim 1 is allowable over the cited references. Claims 2-9 depend from claim 1 and are allowable as depending from an allowable base claim. These claims  
15 are also allowable for their own recited features which, in combination with those recited in claim 1 are neither disclosed nor suggested by cited references.

### **New Claims**

20 Claims 21-29 generally present the subject matter recited in claims 1-9 drawn to one or more computer-readable media. Support for new claims 21-29 is found throughout the specification and drawings as originally filed, and, in particular, in paragraph [0045]. Accordingly, claims 21-29 are believed to be allowable for at least the reasons argued with respect to claims 1-9.

**Conclusion**

5 All of the claims are in condition for allowance. Accordingly, Applicant requests reconsideration and issuance of a Notice of Allowability. If the Office's next anticipated action is to be anything other than issuance of a Notice of Allowability, Applicant respectfully requests a telephone call for the purpose of scheduling an interview.

Respectfully Submitted,

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